

Appl. No. 10/689,483  
 Amdt. dated April 4, 2006  
 Reply to Office Action of October 4, 2005  
 Attorney Docket 17205

**REMARKS/ARGUMENTS**

Claims 1, 4-9, 12-20, and 22-33 are currently pending for examination. Claims 2-3, 10-11 and 21 have been cancelled. Claims 1, 8-9, 16, 22-24, and 27 are currently amended. No new matter has been added.

**Rejection of Claims 23-26 under 35 U.S.C. 112**

Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. Claim 23 has been amended to correct the noted deficiency. Withdrawal of the rejection is respectfully requested.

Claims 24-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 24 has been amended to depend from Claim 23 which cures the insufficient antecedent basis problem noted by the examiner. It is respectfully submitted that Claim 24 as presently presented has sufficient antecedent basis for all limitations presented and as such the rejection should be withdrawn. Claims 25-26 depend from Claim 24 and as such the rejection of Claims 25-26 should also be withdrawn for the reason previously given for Claim 24 as no additional reasons for rejection were given by the examiner.

**Rejection of Claims 1-4, 8-12, and 16 under 35 U.S.C. 102**

Claims 1-4, 8-12, and 16 stand rejected under 35 U.S.C. 102(b) as being anticipated by Hutchison (5,642,653).

In order for a reference to be anticipatory reference, the reference must disclose each and every element of the claimed invention. It is respectfully submitted that Hutchison does not teach or suggest all the elements in the recited claims.

Hutchison appears to teach a method and apparatus for providing detents on an electronic control handle. Hutchison states: "In order to activate the detent position, the operator must move the electronic control handle 108 into detent request area, i.e. between the full request position and the full lever travel position. To activate the detent function, the operator moves the electronic control handle into the detent request area and then releases the

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electronic control handle 108.” (Col 4, lines 55-60). Additionally, Hutchison requires that the returning of the control handle to the neutral position must occur within a certain time period (indicated by the timer). If the time taken to return the control handle to the return position is greater than the specified time period then the detent function will not be activated.

Conversely, in the present invention as claimed in Claim 1, “the controller is configured to change from the first mode of operation to the second mode of operation based upon the operator's positioning of the input device in at least one position of a range of positions for a period of time.” In other words, the present invention requires only that the input device be held for a specified period of time in a certain position for the secondary function to be activated while Hutchison teaches that the input device must move to a certain position and returned to the neutral position in order for the detent function to be activated.

As Hutchison at minimum fails to teach or disclose “the controller is configured to change from the first mode of operation to the second mode of operation based upon the operator's positioning of the input device in at least one position of a range of positions for a period of time” as Claimed in Claim 1 but instead requires the operator to position the input device in multiple positions, the anticipation rejection of Claim 1 should be withdrawn.

Claims 4 and 8 depend from Claim 1 and should be allowable for at least the same reason as Claim 1.

Claim 9 has been amended to include the same limitation of Claim 1 which is believed to make the present invention novel over the cited art. As such, Claim 9 is believed to be allowable over the cited art for at least the same reason as Claim 1.

Claims 12 and 16 depend from Claim 9 and should be allowable for at least the same reason as Claim 9.

Withdrawal of the rejection is respectfully requested

#### **Rejection of Claim 5-7 and 13-15 under 35 U.S.C. 103**

Claims 5-7 and 13-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchison (5,642,653) in view of Arstein et al. (5,685,377).

Claims 5-7 depend from Claim 1 which is believed to be allowable over the cited art for at least the reasons given above as the additional reference of Arstein as cited by the examiner also at minimum fails to disclose “the controller is configured to change from the

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first mode of operation to the second mode of operation based upon the operator's positioning of the input device in at least one position of a range of positions for a period of time" as presently claimed in Claim 1. Since neither cited reference individually, or in combination teach or disclose all of the limitations of Claim 1, Claim 1 should be allowed over the cited art. Claims 5-7 depend from Claim 1 and should be allowed over the cited art for at least the same reason. Withdrawal of the rejection is respectfully requested.

Likewise, Claims 13-15 depend from Claim 9 which is believed to be allowable over the cited art for at least the reasons given above as the additional reference of Arstein as cited by the examiner also at minimum fails to disclose "the controller is configured to change from the first mode of operation to the second mode of operation based upon the operator's positioning of the input device in at least one position of a range of positions for a period of time" as presently claimed in Claim 9. Since neither cited reference individually, or in combination teach or disclose all of the limitations of Claim 9, Claim 9 should be allowed over the cited art. Claims 13-15 depend from Claim 9 and should be allowed over the cited art for at least the same reason. Withdrawal of the rejection is respectfully requested

**Rejection of Claim 17 under 35 U.S.C. 103**

Claim 17 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Hutchison (5,642,653) in view of Arstein et al. (5,685,377) as applied to Claims 1-16 above, and further in view of Khan et al. (5,996,342).

Claim 17 depends from Claim 9 which is believed to be allowable over the cited art for at least the reasons given above as the additional reference of Khan as cited by the examiner also at minimum fails to disclose "the controller is configured to change from the first mode of operation to the second mode of operation based upon the operator's positioning of the input device in at least one position of a range of positions for a period of time" as presently claimed in Claim 9. Since none of the cited reference individually, or in combination teach or disclose all of the limitations of Claim 9, Claim 9 should be allowed over the cited art. As Claim 17 depends from Claim 9, Claim 17 should be allowed over the cited art for at least the same reason. Withdrawal of the rejection is respectfully requested

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**Allowable Subject Matter**

Applicant gratefully acknowledges Examiner's indication that Claims 30-33 are allowed as originally presented.

Applicant also gratefully acknowledges Examiner's indication that Claims 19, 20, and 22-29 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 19 and 20 depend from Claim 9 which is believed to be in condition for allowance as discussed above. As such, Claims 19 and 20 have not been amended.

Claim 22 has been rewritten in independent form including all of the limitations of the base claim from which it previously depended. As such, independent Claim 22 as well as Claims 23-29 which depend from Claim 22 should be allowed.

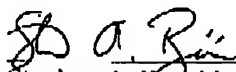
Withdrawal of the objection is respectfully requested.

All the claims are now believed to be in condition for allowance, early notification of which is greatly appreciated. The Examiner is invited to call the undersigned if an interview would advance the prosecution of the case.

A fee of \$1020.00 is currently believed due for a petition for extension of time under 37 CFR 1.136(a) for 3 months. The Commissioner is hereby authorized to charge the petition fee as well as any other fee(s) determined to be due to Deposit Account No. 14-0780.

Applicants' undersigned attorney may be reached at the phone and fax numbers listed below.

Respectfully submitted,



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